

Senate File 328 - Introduced

SENATE FILE 328

BY PETERSEN

A BILL FOR

1 An Act providing for the confinement of agricultural animals
2 and the storage of manure or washwater on karst terrain
3 or terrain that drains into a known sinkhole, and making
4 penalties applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

ANIMAL FEEDING OPERATIONS

Section 1. Section 459.102, Code 2017, is amended by adding the following new subsections:

NEW SUBSECTION. 29A. "*Formed egg washwater storage structure*" means an egg washwater storage structure that has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

NEW SUBSECTION. 57A. "*Unformed egg washwater storage structure*" means an egg washwater storage structure other than a formed egg washwater storage structure.

Sec. 2. Section 459.307, subsection 4, Code 2017, is amended by striking the subsection.

Sec. 3. Section 459.308, subsection 3, Code 2017, is amended by striking the subsection.

Sec. 4. NEW SECTION. 459.309 **Construction and expansion of animal feeding operation structures — karst terrain or terrain that drains into a known sinkhole.**

1. A person shall not construct or expand an animal feeding operation structure on karst terrain or terrain that drains into a known sinkhole.

2. Subsection 1 does not apply to any of the following:

a. The construction of a formed manure storage structure that is constructed to replace an unformed manure storage structure. The formed manure storage structure must be constructed in a manner that complies with upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources. However, the capacity of all replacement formed manure storage structures shall not exceed the capacity required to store all manure from the animal feeding operation on the effective date of this Act.

b. The construction of a formed egg washwater storage structure that is constructed to replace an unformed egg washwater storage structure. The formed egg washwater storage structure must be constructed in a manner that complies with

1 upgraded construction design standards necessary to ensure that
2 the structure does not pollute groundwater sources. However,
3 the capacity of all replacement formed egg washwater storage
4 structures shall not exceed the capacity required to store
5 all egg washwater from the animal feeding operation on the
6 effective date of this Act.

7 3. *a.* If an unformed manure storage structure was
8 constructed on karst terrain or terrain that drains into a
9 known sinkhole prior to the effective date of this Act, there
10 must be a twenty-five-foot vertical separation distance between
11 the bottom of the unformed manure storage structure and any
12 underlying limestone, dolomite, or other soluble rock. The
13 unformed manure storage structure must have been constructed
14 according to construction design standards necessary to ensure
15 that the structure does not pollute groundwater sources.

16 *b.* A formed manure storage structure constructed on karst
17 terrain or terrain that drains into a known sinkhole prior to
18 the effective date of this Act, must have been constructed
19 according to construction design standards necessary to ensure
20 that the structure does not pollute groundwater sources.

21 Sec. 5. Section 459.311D, Code 2017, is amended by striking
22 the section and inserting in lieu thereof the following:

23 **459.311D Stockpiling dry manure on karst terrain or terrain**
24 **that drains into a known sinkhole.**

25 1. Except as provided in this section, a person shall not
26 stockpile dry manure on karst terrain or in an area that drains
27 into a known sinkhole.

28 2. A person who stockpiled dry manure on karst terrain
29 or in an area that drains into a known sinkhole prior to the
30 effective date of this Act may continue to stockpile the dry
31 manure at the same location so long as the person complies with
32 all of the following:

33 *a.* There is a vertical separation distance of at least five
34 feet between the bottom of the stockpile and the underlying
35 limestone, dolomite, or other soluble rock.

1 **b.** The dry manure is stockpiled in a qualified stockpile
2 structure.

3 **c.** The person does not expand the volume or weight of dry
4 manure.

5 **d.** A person shall discontinue stockpiling dry manure at
6 that same location on and after July 1, 2027, unless the
7 person obtains a waiver by the department upon such terms and
8 conditions required by the department. The department shall
9 only grant a waiver if the department is satisfied that the
10 stockpiled dry manure does not pollute groundwater sources.

11 Sec. 6. Section 459.319, subsection 2, Code 2017, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. **c.** A person who stockpiles dry manure on
14 karst terrain or in an area that drains into a known sinkhole.

15 DIVISION II

16 OPEN FEEDLOT OPERATIONS AND ANIMAL TRUCK WASH FACILITIES

17 Sec. 7. Section 459A.102, Code 2017, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 31A. "*Qualified stockpile structure*" means
20 the same as defined in section 459.102.

21 Sec. 8. Section 459A.205, subsection 8, paragraph e,
22 subparagraph (2), Code 2017, is amended to read as follows:

23 (2) If an a formed animal truck wash effluent structure
24 is to be constructed on karst terrain as provided in section
25 459A.406A, the engineering report must establish that the
26 construction complies with the requirements of section
27 459A.404.

28 Sec. 9. Section 459A.403, Code 2017, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 3. A person shall not stockpile solids on
31 karst terrain or in an area that drains into a known sinkhole
32 except as provided in section 459A.403A.

33 Sec. 10. NEW SECTION. 459A.403A Stockpiling solids on karst
34 terrain or terrain that drains into a known sinkhole — open
35 feedlots and animal truck wash facility.

1 1. Except as provided in this section, a person shall not
2 stockpile solids on karst terrain or in an area that drains
3 into a known sinkhole.

4 2. A person who stockpiled solids on karst terrain or in an
5 area that drains into a known sinkhole prior to the effective
6 date of this Act may continue to stockpile the solids at the
7 same location so long as the person complies with all of the
8 following:

9 a. There is a vertical separation distance of at least five
10 feet between the bottom of the stockpile and any underlying
11 limestone, dolomite, or other soluble rock.

12 b. The solids are stockpiled in a qualified stockpile
13 structure.

14 c. The person does not expand the volume or weight of
15 stockpiled solids.

16 d. A person stockpiling solids shall remove the solids and
17 apply them in accordance with the provisions of chapter 459,
18 including section 459.311 within six months after the solids
19 are first stockpiled. A person shall discontinue stockpiling
20 the solids at that same location on and after July 1, 2027,
21 unless the person obtains a waiver by the department upon
22 such terms and conditions required by the department. The
23 department shall only grant a waiver if the department is
24 satisfied that the stockpiled solids do not pollute groundwater
25 sources.

26 Sec. 11. Section 459A.404, subsection 5, Code 2017, is
27 amended by striking the subsection.

28 Sec. 12. NEW SECTION. **459A.406 Construction and expansion**
29 **of open feedlot operation structures — karst terrain or terrain**
30 **that drains into a known sinkhole.**

31 1. A person shall not construct or expand an open feedlot
32 operation structure on karst terrain or terrain that drains
33 into a known sinkhole.

34 2. If an open feedlot operation structure was constructed
35 on karst terrain or terrain that drains into a known sinkhole

1 prior to the effective date of this Act, there must be a
2 twenty-five-foot vertical separation distance between the
3 bottom of the open feedlot operation structure and any
4 underlying limestone, dolomite, or other soluble rock. The
5 open feedlot operation structure must have been constructed
6 according to construction design standards necessary to ensure
7 the structure does not pollute groundwater sources.

8 Sec. 13. NEW SECTION. **459A.406A Construction and expansion**
9 **of animal truck wash effluent structures — karst terrain or**
10 **terrain that drains into a known sinkhole.**

11 1. A person shall not construct or expand an animal truck
12 wash effluent structure on karst terrain on and after the
13 effective date of this Act.

14 2. Subsection 1 does not apply to the construction
15 of a formed animal truck wash effluent structure that is
16 constructed to replace an unformed animal truck wash effluent
17 structure on karst terrain or terrain that drains into a known
18 sinkhole. The formed animal truck wash effluent structure
19 must be constructed in a manner that complies with upgraded
20 construction design standards necessary to ensure that the
21 structure does not pollute groundwater sources. However, the
22 capacity of all replacement formed animal truck wash effluent
23 structures shall not exceed the capacity required to store all
24 animal truck wash effluent from the animal truck wash facility
25 on the effective date of this Act.

26 3. *a.* If an unformed animal truck wash effluent structure
27 was constructed on karst terrain or terrain that drains into a
28 known sinkhole prior to the effective date of this Act, there
29 must be a twenty-five-foot vertical separation distance between
30 the bottom of the unformed animal truck wash effluent structure
31 and any underlying limestone, dolomite, or other soluble rock.
32 The unformed animal truck wash effluent structure must have
33 been constructed according to construction design standards
34 necessary to ensure the structure does not pollute groundwater
35 sources.

1 **b.** A formed animal truck wash effluent structure constructed
2 on karst terrain or terrain that drains into a known sinkhole
3 prior to the effective date of this Act, must have been
4 constructed according to construction design standards
5 necessary to ensure that the structure does not pollute
6 groundwater sources.

7 DIVISION III

8 DRY BEDDED CONFINEMENT FEEDING OPERATIONS

9 Sec. 14. Section 459B.201, Code 2017, is amended to read as
10 follows:

11 **459B.201 Construction design standards.**

12 A person constructing a dry bedded confinement feeding
13 operation structure ~~on karst terrain or~~ in an alluvial aquifer
14 area shall comply with all of the following:

15 1. The person must construct the dry bedded confinement
16 feeding operation structure at a location where there is a
17 vertical separation distance of at least five feet between
18 the bottom of the floor of the dry bedded confinement feeding
19 operation structure and the ~~underlying limestone, dolomite, or~~
20 ~~other soluble rock in karst terrain or~~ the underlying sand and
21 gravel aquifer in an alluvial aquifer area.

22 2. The person must construct the dry bedded confinement
23 feeding operation structure with a floor consisting of
24 reinforced concrete at least five inches thick.

25 Sec. 15. NEW SECTION. **459B.203 Karst terrain and terrain**
26 **that drains into a known sinkhole — construction and expansion**
27 **of dry bedded confinement feeding operation structures.**

28 1. A person shall not construct or expand a dry bedded
29 confinement feeding operation structure on karst terrain or
30 terrain that drains into a known sinkhole.

31 2. If a dry bedded confinement feeding operation structure
32 was constructed on karst terrain or terrain that drains into
33 a known sinkhole prior to the effective date of this Act,
34 there must be a five-foot vertical separation distance between
35 the bottom of the dry bedded confinement feeding operation

1 structure and any underlying limestone, dolomite, or other
2 soluble rock. The dry bedded confinement feeding operation
3 structure must have been constructed according to construction
4 design standards necessary to ensure the structure does not
5 pollute groundwater sources.

6 Sec. 16. Section 459B.307, Code 2017, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 3. A person shall only stockpile dry bedded
9 manure on karst terrain or terrain that drains into a known
10 sinkhole as provided in section 459B.307A.

11 Sec. 17. Section 459B.307, subsection 1, paragraph e,
12 unnumbered paragraph 1, Code 2017, is amended to read as
13 follows:

14 The person shall not stockpile dry bedded manure ~~on karst~~
15 ~~terrain or~~ in an alluvial aquifer area unless the person
16 complies with all of the following:

17 Sec. 18. NEW SECTION. **459B.307A Stockpiling dry bedded**
18 **manure on karst terrain or terrain that drains into a known**
19 **sinkhole.**

20 1. Except as provided in this section, a person shall not
21 stockpile dry bedded manure on karst terrain or in an area that
22 drains into a known sinkhole.

23 2. A person who stockpiled dry bedded manure on karst
24 terrain or in an area that drains into a known sinkhole prior
25 to the effective date of this Act may continue to stockpile the
26 dry bedded manure at the same location so long as the person
27 complies with all of the following:

28 a. There is a vertical separation distance of at least five
29 feet between the bottom of the stockpile and any underlying
30 limestone, dolomite, or other soluble rock.

31 b. The dry bedded manure is stockpiled in a qualified
32 stockpile structure.

33 c. The person does not expand the volume or weight of
34 stockpiled dry bedded manure.

35 d. A person stockpiling dry bedded manure shall remove

1 the dry bedded manure and apply it in accordance with the
 2 provisions of chapter 459, including section 459.311 within
 3 six months after the dry bedded manure is first stockpiled.
 4 A person shall discontinue stockpiling dry bedded manure at
 5 that same location on and after July 1, 2027, unless the
 6 person obtains a waiver by the department upon such terms and
 7 conditions required by the department. The department shall
 8 only grant a waiver if the department is satisfied that the
 9 stockpiled dry bedded manure does not pollute groundwater
 10 sources.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
 13 the explanation's substance by the members of the general assembly.

14 BILL'S PROVISIONS. This bill prohibits the construction
 15 or expansion of an animal feeding operation structure, open
 16 feedlot operation structure, animal truck wash effluent
 17 structure, or dry bedded confinement feeding operation
 18 structure from being constructed or expanded on karst terrain
 19 or terrain that drains into a known sinkhole. The bill
 20 prohibits the stockpiling of certain dry or solid manure on
 21 such terrain. The bill also regulates the use of structures
 22 or stockpiles existing on such terrain prior to the bill's
 23 effective date. The bill retains or expands vertical
 24 separation distances required between the bottom of a structure
 25 or stockpile and any underlying limestone, dolomite, or other
 26 soluble rock. The bill requires that a stockpile located
 27 on the terrain be kept in a qualified stockpile structure
 28 which is a building or other roofed structure (Code section
 29 459.102). It provides for the removal of manure or solids from
 30 the stockpile. It also requires that an existing stockpile be
 31 discontinued on July 1, 2027, unless the department of natural
 32 resources grants a waiver.

33 BACKGROUND — STRUCTURES ASSOCIATED WITH OPERATIONS AND
 34 FACILITIES. An animal feeding operation is a location where
 35 agricultural animals are confined for 45 days or more in

1 any 12-month period and includes associated animal feeding
 2 operation structures. The provisions regulating confined
 3 agricultural animals are generally included in three related
 4 Code chapters. Code chapter 459 ("Animal Agriculture
 5 Compliance Act") regulates all animal feeding operations but
 6 primarily confinement feeding operations where agricultural
 7 animals are confined to areas which are totally roofed. Code
 8 chapter 459A ("Animal Agriculture Compliance Act for Open
 9 Feedlot Operations and Animal Truck Wash Facilities") regulates
 10 open feedlot operations which are unroofed or partially roofed
 11 areas where there is no vegetation, and where settleable solids
 12 are separated from liquids; and animal truck wash facilities
 13 used to store effluent including solids after truck-trailers
 14 or similar vehicles transporting agricultural animals are
 15 cleaned. Code chapter 459B ("Animal Agriculture Compliance
 16 Act for Dry Bedded Confinement Feeding Operations") regulates
 17 special confinement feeding operations (hoop buildings) in
 18 which the effluent is exclusively stored on a dry rather
 19 than liquid basis. An animal feeding operation structure
 20 refers to a confinement building, manure storage structure,
 21 dry bedded confinement feeding operation structure, or egg
 22 washwater storage structure (Code chapter 459.102). An open
 23 feedlot operation structure refers to an open feedlot where
 24 agricultural animals are maintained, and a basin or other
 25 constructed area where effluent and solids are separated
 26 (Code section 459A.102). A dry bedded confinement feeding
 27 operation structure refers to a totally roofed building where
 28 agricultural animals are maintained or a structure storing dry
 29 bedded manure (Code section 459B.102).

30 BACKGROUND — STOCKPILING. Stockpiling refers to that part
 31 of manure or effluent produced by agricultural animals which
 32 is "dry" or "solid", meaning that it does not flow perceptibly
 33 under pressure and is not capable of being transported through
 34 a mechanical pumping device designed to move a liquid (Code
 35 sections 459.102 which refers to dry manure, 459A.102 which

1 refers to solids, and 459B.102 which refers to dry bedded
2 manure).

3 BACKGROUND — KARST TERRAIN AND SINKHOLES. Karst terrain is
4 characterized by the presence of bedrock composed of limestone
5 or dolomite near the ground surface which dissolves easily.
6 Such terrain often includes sinkholes which are a depression or
7 hole in the ground caused by a collapse of the ground's surface
8 layer.

9 APPLICABLE CIVIL PENALTIES. Each of the three Code chapters
10 provide for the imposition and assessment of civil penalties
11 for violations involving water quality. A person who violates
12 a water quality provision is subject to an administratively
13 assessed civil penalty of not more than \$10,000 (Code sections
14 455B.109, 459.603, 459A.502, and 459B.402), or a judicially
15 assessed amount of not more than \$5,000 per each day of the
16 violation (Code sections 455B.191 and 459.603).